



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-3644 FAX (603) 271-2181



Franklin Pierce College
Attn: Bruce Kirsh
PO Box 60
Rindge, NH 03461

Re: UST #0-110157
Franklin Pierce College
60 College Rd
Rindge, NH

ADMINISTRATIVE ORDER
BY CONSENT
No. WMD 03-16

A. INTRODUCTION

This Administrative Order by Consent is issued by the Department of Environmental Services, Waste Management Division to, and with the consent of, Franklin Pierce College, pursuant to RSA 146-C:9-a. This Administrative Order by Consent is effective upon signature by both parties.

B. PARTIES

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095.
2. Franklin Pierce College is a New Hampshire institution having a mailing address of PO Box 60, Rindge NH 03461

C. STATEMENTS OF FACTS AND LAW

1. RSA 146-C authorizes DES to regulate underground storage tank ("UST") facilities. Pursuant to RSA 146-C:9, the Commissioner of DES has adopted NH Admin. Rules Env-Wm 1401 to implement this program.
2. Franklin Pierce College is the owner of a 10,000-gallon double-wall underground heating oil storage tank ("UST") system, further identified as #0-110157, located at 60 College Road in Rindge, NH, hereinafter referred to as the Property.
3. The UST system is identified as the Granite Dormitory/ Campus Fire Station, tank # 15.
4. The UST system on the Property is subject to the requirements of RSA 146-C and the rules adopted pursuant to that chapter, NH Admin. Rule Env-Wm 1401.
5. Env-Wm 1401.05 requires that the owner of any facility, which becomes subject to regulation due to a change in the use of any system at the facility must register the facility at least 30 days prior to changing the use of the system and shall comply with all applicable requirements before instituting the changed use.
6. NH Admin. Rule Env-Wm 1401.27 requires all new piping be installed with leak monitoring and the interstitial space of the double wall piping or the annular space between the primary piping

and the secondary containment system be continuously monitored to detect the presence of both water and the regulated substance, or water and vapors of the regulated substance.

7. NH Admin. Rule Env-Wm 1401.31 requires leak monitoring equipment and devices be tested annually for proper operation in accordance with the manufacturer's requirements.

D. DETERMINATION OF VIOLATIONS

1. DES inspected the Franklin Pierce College's facility on January 14, 2003 and determined that Franklin Pierce College has violated Env-Wm 1401.05 by failing to comply with all applicable requirements before instituting the change in use at the Granite Dormitory/ Campus Fire Station, tank system #15 on the Property from a non-regulated residential heating oil system to a regulated commercial system.

2. DES inspected the Franklin Pierce College's facility on January 14, 2003 and determined that Franklin Pierce College has violated Env-Wm 1401.27 by failing to monitor the interstitial space of the double wall piping system at the Granite Dormitory/ Campus Fire Station, tank system # 15 on the Property.

3. DES inspected the Franklin Pierce College's facility on January 14, 2003 and determined that Franklin Pierce College has violated Env-Wm 1401.31 by failing to annually test the leak detection system at the Granite Dormitory/ Campus Fire Station, tank system # 15 on the Property.

E. ORDER

Based on the above findings, DES hereby orders Franklin Pierce College, and Franklin Pierce College agrees, to undertake and complete the following actions in accordance with the time schedules specified:

1. By **August 29, 2003**, install a leak-monitoring sensor to monitor the interstitial space of the double-wall piping system at the Granite Dormitory/ Campus Fire Station tank system #15.
2. By **August 29, 2003**, submit, on forms provided by DES, results to DES of the leak monitoring system test at the Granite Dormitory/ Campus Fire Station tank system #15.
3. If tests results are inconclusive or indicate a failure of the monitoring system at the Granite Dormitory/ Campus Fire Station tank system #15, the leak monitor must be replaced and the tank system must be tightness tested.
4. If tightness test results indicate a failure at the Granite Dormitory/ Campus Fire Station tank system #15, the tank system must be evacuated immediately, and closed within 30 days of the date of discovery.
5. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order by Consent to DES as follows:

Lynn A. Woodard, P.E., Supervisor
DES Oil Remediation and Compliance Bureau
PO Box 95
Concord, NH 03302-0095

Fax No.: (603) 271-2181
e-mail: lwoodard@des.state.nh.us

F. STIPULATED PENALTIES

Franklin Pierce College agrees to pay a stipulated penalty of \$2,000 for each calendar month or portion thereof after **August 29, 2003** for not installing or providing testing results of the leak monitoring system at the Granite Dormitory/ Campus Fire Station tank system #15. If stipulated penalties become due, payment shall be by certified check made payable to "Treasurer, State of New Hampshire" and mailed to DES Legal Unit, 6 Hazen Drive, PO Box 95, Concord, NH 03302-0095, attn: Michael Sclafani, Legal Assistant, within 15 days of receipt of notice from DES that payment is required.

G. CONSENT AND WAIVER OF APPEAL

1. By execution of this Administrative Order by Consent, Franklin Pierce College agrees that this Order shall apply to and be binding upon Franklin Pierce College, and its directors and agrees that this Order may be entered and enforced by a court of competent jurisdiction.
2. By execution of this Administrative Order by Consent, Franklin Pierce College waives any right to appeal this Administrative Order by Consent provided by statute, rule, or common law, including without limitation the right to appeal to the Waste Management Council, and waives any right to object to the entry and enforcement of this order by a court of competent jurisdiction.

Franklin Pierce College
COPY
By: _____
Duly Authorized

2/20/03
Date

New Hampshire Department of Environmental Services
COPY
Philip J. O'Brien, Ph.D., P.G., Director
Waste Management Division

8/5/03
Date

COPY
Michael P. Nolin, Commissioner

08 08 03
Date

cc: Gretchen Rule, DES Legal Unit
Public Information Officer, DES PIP Office
NH AGO
Rindge Fire Dept